

OFFICE OF THE GENERAL COUNSEL

MEMORANDUM GC 98-9

July 13, 1998

To: All Regional Directors, Officers-in-Charge, Resident Officers,
Division and Office Heads, and Branch Chiefs

From: Fred Feinstein, Acting General Counsel

Subject: Delegation of Section 102.118 Authorization

Any party seeking to obtain the contents of files under the General Counsel's control in Washington or in the Regional Offices, or the testimony of any Board agent or attorney there employed, is required, under Section 102.118 of the Board's Rules and Regulations, as amended, to secure the authorization of the General Counsel. Since certain types of requests under Section 102.118 have been routinely granted, those particular classes of Section 102.118 requests have received blanket General Counsel authorizations in order to speed consideration of such requests and to eliminate layers of review. The General Counsel has also delegated the authority to the Regional Directors to decide whether to approve certain other types of requests. (See, General Counsel Memoranda dated February 2, 1972, March 21, 1974, March 20, 1992 and November 2, 1994, attached.)

More recently, in General Counsel's Memorandum 98-7, dated May 22, 1998, I delegated authority to the Associate General Counsel for Enforcement Litigation under Section 102.118 of the Board's Rules and Regulations to decide whether to grant requests for any member of the staff of the General Counsel, whether in headquarters or in the field, to testify, or to provide other evidence or information in ongoing litigation in the courts, and to decide whether to otherwise disclose information in connection with matters handled by one of the litigating branches of the Division of Enforcement Litigation. Such authority is also to be exercised by the Associate General Counsel for Enforcement Litigation in other instances in which it would be beneficial to share information with other government agencies, U.S. Trustees in bankruptcy, trustees in bankruptcy, or other creditors of a debtor or on occasions when the agency is responding to a third party subpoena.

Over the course of the years in which the above blanket authorizations and other instances of delegation of authority under Section 102.118 have been exercised, such procedural changes have proven beneficial to the efficiency of the Agency. Accordingly, and in order to further facilitate casehandling, I am hereby delegating to the Associate General Counsel for Operations-Management the authority to decide on the appropriateness of granting any remaining requests under Section 102.118 which do not specifically fall within any of the above areas of previously delegated authority. Generally, the Associate General Counsel for the Division of Operations-Management,

who maintains close communication with the Regional Offices and with those headquarters Divisions under the supervision of the General Counsel, will be able to quickly evaluate the need, in each case, for Section 102.118 authorization and to determine whether disclosure or litigation over nondisclosure is to the best advantage to the Agency. This delegation of Section 102.118 authorization to the Associate General Counsel for Operations-Management will increase the Agency's efficiency and effectiveness in responding to such requests, and serve to assist in efforts to streamline procedures within the Agency. Accordingly, submissions of such requests not falling under the previously delegated authority and which seek Board Agent/Agency employee testimony or the production of documents and other similar information are henceforth to be directed to the Associate General Counsel for Operations-Management. The Associate General Counsel for Operations-Management will make determinations regarding such requests, on a case-by-case basis, on behalf of the General Counsel.

F. F.

Attachments

cc: NLRBU

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